

**CITY OF LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT**

**- REVISED REPORT -**

**P.A.S.:** Special Permit #2000

**DATE:** January 23, 2003

**SCHEDULED PLANNING COMMISSION MEETING:** February 5, 2003

**PROPOSAL:** A special permit to allow the sale of alcoholic beverages for consumption on the premises.

**WAIVER REQUEST:** The applicant is requesting a waiver to the Design Standards to allow a gravel parking lot instead of paving it.

**LAND AREA:** Approximately 2.6 acres.

**CONCLUSION:** Originally, the licensed premises was located approximately 90' from a residence. The applicant requested, and Staff recommended, a two-week deferral to allow time for mitigation to be discussed. The revised application shows the licensed premises 100' away from any residence, residential district or day care facility and complies with all applicable criteria except a paved parking lot.

**RECOMMENDATION:**

Special Permit #2000  
Waiver to Design Standard

Conditional Approval  
Denial

**GENERAL INFORMATION**

**LEGAL DESCRIPTION:** Lots 4, Delta Regency Addition, Lancaster County, Nebraska.

**LOCATION:** 3235 North 35<sup>th</sup> Street

**OWNER:** Delta Investments  
PO Box 30618  
Lincoln, NE 68521 (402)438-1200

**APPLICANT/  
CONTACT:** Janet Crosby  
5014 Valley Forge Road  
Lincoln, NE 68521 (402)416-1701

**EXISTING ZONING:** I-1 Industrial

**EXISTING LAND USE:** Social Hall

## **SURROUNDING LAND USE AND ZONING:**

North	Industrial	I-1
South	Industrial	I-1
East	Residential	I-1
West	Industrial	I-1

**COMPREHENSIVE PLAN SPECIFICATIONS:** The Comprehensive Plan designates industrial land use for the subject property.

## **ANALYSIS**

### **OVERVIEW:**

The building on the site has been in use as a social hall since 1995. The applicant wants to continue using the building as a social hall, but with the sale of alcohol for consumption on the premises. Located in the I-1 district, the sale of alcohol for consumption on the premises is allowed by special permit. This request is for a special permit to allow the sale of alcoholic beverages for consumption on the premises, in conjunction with the use of the building as a social hall.

This application was initially considered by the Planning Commission at the January 22, 2003 hearing where a two-week deferral was granted at the request of the applicant. The applicant requested deferral to allow time to mitigate the fact that the proposed use was within 90' of a residence located in the mobile home park to the east, and to request a waiver to the requirement for paving the parking lot.

LMC 27.63.680(c) uses the term "licensed premises", a term that refers to the area subject to the liquor license issued by the State of Nebraska. The site plan has been revised to show a wall being constructed to prohibit public access to the the east 10' of the building. With this revision, the licensed premises is in excess of 100' from the nearest residence and meets all the applicable location criteria.

### **1. SPECIAL PERMIT REQUIREMENTS PER LINCOLN MUNICIPAL CODE (LMC)**

**27.63.680:** Alcoholic beverages may be sold for consumption on the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, I-2 and I-3 zoning districts upon the approval of a special permit. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions, which may be waived by the City Council:

#### **(a) Parking shall be in accordance with LMC Section 27.67.020.**

The design of the parking lot complies with the design standards, with the exception that it is not paved. To be found in accordance with LMC Section 27.67.020, the parking lot must be paved.

A waiver to Design Standards is being requested, as the applicant seeks to be allowed to maintain a gravel parking lot. In their review, the Public Works Department notes that the parking lot must paved, and there do not appear to be any unique circumstances associated with this application that justifies a waiver.

**(b) The sale of alcoholic beverages for consumption off the premises shall not be permitted without issuance of a permit under LMC Section 27.63.685 of this code.**

This application is for a special permit to allow the sale of alcohol for consumption on the premises. The sale of alcoholic beverages off the premises is not a part of this proposal and is not being requested.

**(c) The licensed premises of any building approved for such activity must be located no closer than 100 feet from a day care facility, a residential district or residential use, or, if a lesser distance, must mitigate any adverse effects of the reduction in distance through landscaping, screening, or other methods approved by the Planning Director.**

The revised site plan shows the licensed premises located in excess of 100' away from a residence, a residential district or a day care. Additionally, the facility is separated by North 35<sup>th</sup> Street which provides access to not only the social hall and mobile home park, but to the other commercial and industrial uses in the area. Consistent with previous reviews, the Police Department is recommending approval as the use meets the 100' separation distance criteria.

**(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.**

Any parking lot lighting must comply with the applicable City of Lincoln Design Standards.

**(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.**

A drive-through window is not being proposed.

**(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.**

No such devices are proposed with this special permit.

**(g) No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.**

There is no residential zoning in this area - the mobile home park on the east side of North 35<sup>th</sup> Street is also located in the I-1 district. So while there is no residential zoning in this area and this particular criteria is not applicable, the doors to the facility in fact open to the north and south and do not face the residences to the east.

**(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible as determined by the City Council, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.**

No residential streets are used to access this site. North 35<sup>th</sup> Street, which is adjacent to this site, serves an area of predominantly industrial uses and is not considered a residential street.

**(i) All other regulatory requirements for liquor sales shall apply, including licensing by the state.**

**(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:**

- (1) Revocation or cancellation of the liquor license for the specially permitted premises; or**
- (2) Repeated violations related to the operation of the permittee's business.**

**Planning Commission review and City Council approval is required for this use.**

## **2. DEPARTMENT RESPONSES:**

**POLICE:** The Police Department finds that the proposed use is in excess of 100' from a residence, residential district or day care and is recommending approval.

**PUBLIC WORKS:** Public Works states that the layout of stalls and driving aisles for the parking lot meets Design Standards, but also notes that the parking lot must be paved to meet all the requirements of LMC.

## **CONDITIONS:**

### Site Specific:

1. After the applicant completes the following instructions and submits the documents and plans to the Planning Department and the plans are found to be acceptable, the application will be scheduled on the City Council's agenda:

- 1.1 Submit certified information from an abstractor or an attorney indicating the current record owner(s) of all land within the limits of this application.
- 1.2 Revise the site plan to show a paved parking lot.
2. This approval permits the sale of alcohol for consumption on the premises at 3235 North 35<sup>th</sup> Street consistent with the site plan submitted where the consumption of alcohol is prohibited within the east 10' of the building.

### General:

3. Before the sale of alcohol for consumption on the premises, the parking lot shall be paved in compliance with City Design Standards.

### Standard:

4. The following conditions are applicable to all requests:
  - 4.1 Before the sale alcohol for consumption on the premises all development and construction is to comply with the approved plans.
  - 4.2 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
  - 4.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
  - 4.4 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.

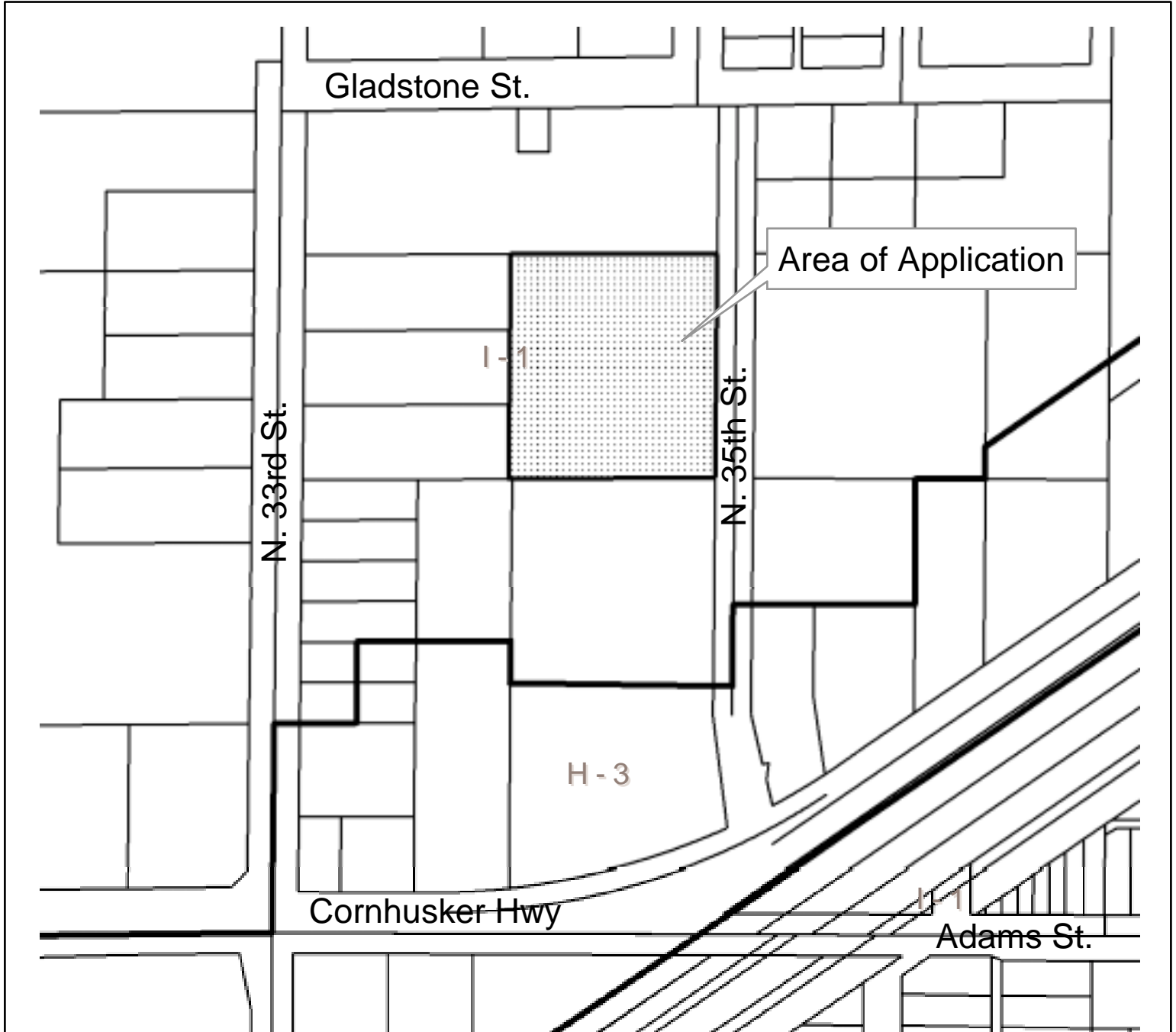
Prepared by:

\_\_\_\_\_  
Brian Will, AICP



**Special Permit #2000**  
**N. 35th & Cornhusker Hwy**





## Special Permit #2000 N. 35th & Cornhusker Hwy

### Zoning:

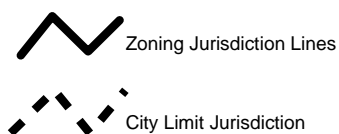
R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile  
Sec. 7 T10N R7E

N. 27th St.



N 40th St.



# Site Plan

3235 No. 35th Street  
Lincoln, Nebraska

**LEGAL DESCRIPTION**

PARKING = 62 STALLS

1-1 ZONING

\*\*\* SITE PLAN REVISED 1-14-03 \*\*\*

NO ALCOHOL CONSUMPTION IN THIS AREA

NORTH 35TH STREET

RE 35789(M) 35917(P)

SCREENING  
TABLETOP BLUE' JUNIPER

**LOT 4**

AREA OF LEASE

DRIVEWAY EASTMENT

**SOUTH**

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E 32702' 589°39'47"W.

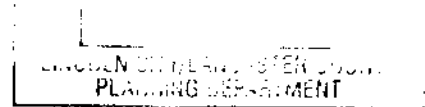
589°39'47"W.

JAN 23 2003

PLANNING DEPARTMENT



*Janet L. Crosby*  
5014 Valley Forge Rd.  
Lincoln, Nebraska  
68521  
(402) 416-1701  
(402) 435-4912  
simplyparadise@hotmail.com



January 23, 2003

Dear Sirs,

The information below is as a result of my application for a special permit to allow the sale of alcoholic beverages on the premises. Special Permit #2000. Property address 3235 No. 35th St. Lincoln, Nebraska.

As the permit applicant, I would ask the commission to consider the new site plan I have provided for you. It is very important to me, that I follow all code restrictions and have my social hall follow all city and state regulations.

With this said, I'm proposing to erect a wall at the East End of my building. This said area, being approximately 10' inside the building, will have no public access, and will thus make the consumption of alcohol more than 100 feet from the residences to the east of my building.

As has been stated before, the use of this building has been a social hall with the consumption of alcohol for the past 9 years. The only difference is that now, I, as the owner of the business, will possess the liquor license. Prior to my taking over the building, alcohol was sold and consumed on the premises, only done so by use of a catering liquor license.

I can assure this commission and the city of Lincoln, that all rules and or regulations regarding on-sale alcohol will be strictly enforced. I realize the importance and responsibility of being granted a liquor license. You have my most sincere promise that myself or any of my staff during an event will make this our top priority.

Respectively Submitted,

*Janet L. Crosby*  
Janet L. Crosby

*Janet L. Crosby*

5014 Valley Forge Rd.

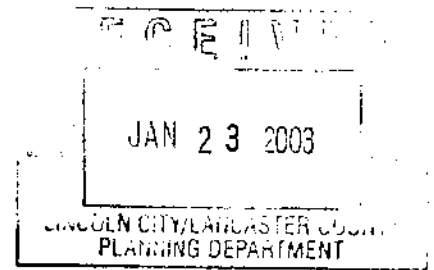
Lincoln, Nebraska

68521

(402) 416-1701

(402) 435-4912

*simplyparadise@hotmail.com*



January 23, 2003

Dear Sirs,

*The information below is as a result of my application for a special permit to allow the sale of alcoholic beverages on the premises. Special permit #2000, property address 3235 No. 35th St. Lincoln Nebraska.*

*As the permit applicant, I would ask the commission to consider a waiver at this time concerning the paving of said parking lot. My parking lot however, does have several paved parking spots, two being handicap assessable. The costs of paving would be a huge hardship on my pending business. My hopes are to sometime in the future have the capitol to allow me to pave the lot.*

*The property has been used as a social hall for 9 years and noise and dust from the rocked part of the lot has never been a problem, as my building is very seldom being used when other surrounding businesses are open.*

*I thank-you for your time concerning this matter.*

*Respectively Submitted,*

*Janet L. Crosby*

Janet L. Crosby

# Memorandum



**To: Mr. Brian Will**

**From: Sergeant Michael S. Woolman #737**

**Date: January 23, 2003**

**Re: Simply Paradise**

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Mr. Will,

I have reviewed the letter from Janet Crosby dated January 23, 2003. The third paragraph of the letter states, "With this said, I'm proposing the erect a wall at the East End of my building. This said area, being approximately 10' inside the building, will have no public access, and will thus make the consumption of alcohol more than 100 feet from the residences east of my building". The Lincoln Police Department has no objections to the new site plan and no objections to the Special Permit as long as the licensed area is more that 100 feet from a residential area.

Michael S. Woolman

# Memorandum

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**To:** Brian Will, Planning Department  
**From:** Charles W. Baker, Public Works and Utilities *BWB*  
**Subject:** Alcohol Sales Special Permit #2000  
**Date:** January 2, 2003  
**cc:** Randy Hoskins  
Nicole Fleck-Tooze

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the site plan for the proposed Alcohol Sales Special Permit located at 3235 North 35th Street. Public Works finds the site plan parking layout meets design standards, *provided all stalls and drive aisles are paved. A parking lot plan must be submitted to Dept. of Public Safety for permits.*